

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of) **MAIL STOP ISSUE FEE**
Takashi UMENO)
Application No.: 10/588,299) Group Art Unit: 1796
Filed: August 2, 2006) Examiner: Eisa B. ELHILO
For: HAIR COLOR) Confirmation No.: 6867
)

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

An Examiner's Statement of Reasons for Allowance accompanied the Notice of Allowability issued on December 3, 2008, in connection with the above-identified application.

The comments in the Statement states:

The obviousness rejections over the prior art of record are rendered moot because applicants shown on record [sic] that the claimed composition (basic dyes, alcohol-soluble acryl base resin, lower alcohol and water in the claimed amounts) provides unexpected results in terms of a cumulative hair dyeing property, water resistance and skin dyeing property over the composition of the prior art of record (acidic dyes, alcohol-soluble acryl base and/or basic dyes in the percentage amounts exceeding the recited range) that showed inhibited cumulative dyeing property, inferior in terms of water resistance and skin dyeing property (see specification at page 22, Table 1). Accordingly, the claimed subject matter as a whole would not have been obvious to one having ordinary skill in the art of hair dyeing formulation.

(page 2, paragraph 4 of the Notice of Allowability).

Applicant respectfully submits that the above statement is incomplete. For instance, with respect to the obviousness-type double patenting rejection of claims 6 and 7 over claims 1 and 2 of U.S. Patent No. 6,905,521, Applicant pointed out in the Amendment filed August 28, 2008, that independent claim 1 of the '521 patent recites a cumulative hair-dyeing composition comprising 0.01 to 3% by weight of *an acid dye* as a colorant, 0.1 to 10% by weight of *a nonionic or anionic silicone base resin*, 3 to 20% by weight of a hair-dyeing aid, 30 to 80% by weight of a lower alcohol and 5 to 50% by weight of water, and that the Office Action has failed to establish a *prima facie* case of obviousness by providing any reason why it would have been obvious to modify the cumulative hair dyeing composition recited in claim 1 of the '521 patent by, *inter alia*, substituting a *basic dye* for the *acidic dye* as a coloring agent, and *an alcohol-soluble acryl base resin* for the *nonionic or anionic silicone base resin* (page 7 of the Amendment).

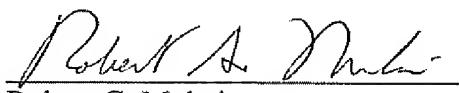
Further, with respect to the § 103 rejection of claims 6 and 7 over U.S. Patent Application Publication No. 2003/0066142 ("Tsuchiya") in view of U.S. Patent Application Publication No. 2002/0046431 ("Laurent"), Applicant explained on page 9 of the Amendment filed August 28, 2008, that the Office Action has failed to establish that it would have been obvious to combine Laurent with Tsuchiya.

Thus, this paper is being filed to clarify the record. Furthermore, each and every claim independently distinguishes over the cited references on their own merits, as delineated in the features of said claims.

If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned at the number provided below at the Examiner's earliest convenience.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

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Date: January 30, 2009